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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/052,688	03/31/98	CLEVENGER	98P7476US

EXAMINER	
ART UNIT	PAPER NUMBER

MM22/0825

SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
186 WOOD AVENUE SOUTH
ISELIN NJ 08830

DATE MAILED:

08/25/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Applicant's election without traverse of Group I, Claims 1-15 in Paper No. 7 is acknowledged. Claims 16-27 stand withdrawn from further consideration by the examiner, 37 CFR 1.142(b) as being drawn to a non-elected invention.

Changes to patent practice and procedure in effect since December 1, 1997, include the following change to 37 CFR § 1.135:

The one month time limit (or grace period) practice set forth in former § 1.135(c), for permitting the completion of a *bona fide* but incomplete reply, is eliminated. Instead, amended § 1.135(c), which continues to apply to replies to nonfinal actions, provides that a reply may be accepted as a reply, and an action setting forth a requirement and giving a new time period for reply may be mailed. Providing a new time period would permit extensions of such period under § 1.136 and clarify the date of abandonment in the event of a failure to reply.

In the instant case, the response to the restriction/election requirement previously set forth in paper no. 3 is incomplete because applicants failed to elect a single disclosed species of invention for prosecution.

The election requirement set forth in paper no. 7 to a single disclosed species is repeated below:

This application contains claims directed to the following patentably distinct species of the claimed invention:

(1) liner material selected from titanium or tantalum metals or nitrides (as defined in Claim 4); and

(2) liner material selected from carbon, graphite, noble metals, near noble metals, and rare earth metals (as defined in Claim 6).

Applicants are required under 35 U.S.C. § 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, Claims 1-3, 13, 16-19, and 26-27 are generic.

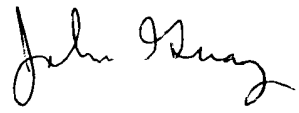
Applicant is advised that a response to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 C.F.R. § 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. M.P.E.P. § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or

identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. § 103 of the other invention.

Any inquiry concerning this communication should be directed to John Guay at telephone number (703) 305-3507.



JOHN GUAY
PRIMARY EXAMINER